

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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Teng Moua, et al.,  Plaintiffs,  v.  Jani-King of Minnesota, Inc., a Texas Corporation, et al.,  Defendants.	No. 08-CV-4942 (ADM/TNL)  <b><u>ORDER TO SHOW CAUSE</u></b> <b>Plaintiffs Juan Martinez,</b> <b>Cheri Martinez (a/k/a Cheri Martinez</b> <b>Heineman), Eng Thao, Choua Moua,</b> <b>Blia Yang &amp; Ying Cheng</b>
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Christopher C. Grecian, Jamie L. Habeck, Steven J. Erffmeyer, Thomas W. Pahl, and Michael W. Haag, Foley & Mansfield, PLLP, 250 Marquette Avenue South, Suite 1200, Minneapolis, MN 55401 (for Plaintiffs);

Kerry L. Bundy, William L. Killion, Aaron D. Van Oort, Christopher J.L. Diedrich, Eileen M. Hunter, and Myriam Pierre Warren, Faegre & Benson LLP, 90 South Seventh Street, Suite 2200, Minneapolis, MN 55402-3901 (for Defendants).

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**WHEREAS**, on October 21, 2011, the Court issued an Order for Second Settlement Conference (Docket No. 180), which ordered the parties to attend a settlement conference with the Court on November 9, 2011;

**WHEREAS**, the Order for Second Settlement Conference required that “[i]f individuals are parties to this case, they must be present” and mandated “[p]hysical presence in the courthouse . . . ,” (Docket No. 180 at 1-2);

**WHEREAS**, the Order for Second Settlement Conference also warned as follows:

Failure to comply with any provision of this Order or any other consistent order shall subject the non-complying party, non-complying counsel and/or the party such counsel represents to any and all appropriate remedies, sanctions and the like, including without limitation: assessment of costs,

finances and attorneys' fees and disbursements; waiver of rights to object; exclusion or limitation of witnesses, testimony, exhibits and other evidence; striking of pleadings; complete or partial dismissal with prejudice; entry of whole or partial default judgment; and/or any other relief that the undersigned may from time to time deem appropriate.

(Docket No. 180 at 3.);

**WHEREAS**, on November 9, 2011, a settlement conference was held before the Court, (*see* Docket No. 181);

**WHEREAS**, Kerry L. Bundy and Christopher J.L. Diedrich appeared on behalf of Defendants, (*see* Docket No. 181);

**WHEREAS**, Christopher C. Grecian and Steven J. Erffmeyer appeared on behalf of Plaintiffs Juan Martinez, Cheri Martinez (a/k/a Cheri Martinez Heineman), Eng Thao, Choua Moua, Blia Yang, and Ying Cheng, (*see* Docket No. 181);

**WHEREAS**, Plaintiffs Juan Martinez, Cheri Martinez (a/k/a Cheri Martinez Heineman), Eng Thao, Choua Moua, Blia Yang, and Ying Cheng failed to attend the November 9 settlement conference, (*see* Docket No. 181);

**WHEREAS**, all 23 plaintiffs who appeared at the November 9 settlement conference reached full and final settlement with Defendants, (*see* Docket No. 181); and

**WHEREAS**, Federal Rule of Civil Procedure 16(f)(1) allows a district court to impose sanctions on any party who "fails to appear at a scheduling or other pretrial conference" or "fails to obey a scheduling or other pretrial order," Fed. R. Civ. P. 16(f)(1)(A), (C);

**IT IS HEREBY ORDERED** that:

1. On **December 9, 2011, at 9:00 a.m.**, Plaintiffs Juan Martinez, Cheri Martinez (a/k/a Cheri Martinez Heineman), Eng Thao, Choua Moua, Blia Yang, and Ying Cheng shall appear before this Court, United States Magistrate Judge Tony N. Leung, in Courtroom 3A, of the United States Courthouse, 316 North Robert Street, Saint Paul, Minnesota, 55101, and show cause why the Court should not issue a report and recommendation, recommending dismissal of their claims with prejudice for failing to comply with the Court's Order for Second Settlement Conference of October 21, 2011.
2. On or before **November 28, 2011**, Plaintiffs Juan Martinez, Cheri Martinez (a/k/a Cheri Martinez Heineman), Eng Thao, Choua Moua, Blia Yang, and Ying Cheng shall file and serve any written submissions in support of the show of cause.
3. On or before **December 5, 2011**, Defendants may file a response to the submissions of Plaintiffs.
4. All prior consistent orders remain in full force and effect.
5. Failure to comply with any provision of this Order or any other prior consistent Order shall subject the non-complying party, non-complying counsel and/or the party such counsel represents to any and all appropriate remedies, sanctions and the like, including without limitation: assessment of costs, fines and attorneys' fees and disbursements; waiver of rights to object; exclusion or limitation of witnesses, testimony, exhibits and other evidence; striking of pleadings; complete or partial dismissal with prejudice; entry of whole or partial default judgment; and/or any other relief that this Court may from time to time deem appropriate.

Date: November 21, 2011

s/Tony N. Leung  
Tony N. Leung  
United States Magistrate Judge  
for the District of Minnesota

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